

Chapter 5. Relationships to Federal, State, and Local Policies and Plans

This chapter contains an overview of policies and plans promulgated by public agencies with jurisdiction in the vicinity of the Nisqually Basin. A summary is included for each relevant policy and plan, as well as a brief discussion of its relevancy for planning at Nisqually NWR.

5.1 Federal Government

Two Federal agencies have jurisdictions over portions of the study area—the U.S. Fish and Wildlife Service and the U.S. Army. The Service’s plans and policies are relevant to the Refuge since the Service owns or manages the Refuge. Planning by the Army is relevant since Fort Lewis, a large Army installation, occupies a small portion of the study area on the eastern bank of the Nisqually River.

5.1.1 Fish and Wildlife Service Plans, Policies, and Programs

Nisqually NWR and its management and administrative activities are managed as part of the National Wildlife Refuge System within a framework provided by legal and policy guidelines reviewed in Sections 1.4 through 1.7 of this CCP/EIS. The role of the Service is introduced in Section 1.4, as well as the mission of the National Wildlife Refuge System. The Service’s policies on Compatibility, Planning, and Biological Integrity, Diversity, and Environmental Health mandated by the National Wildlife Refuge System Improvement Act of 1977 are the focus of Section 1.4, which also provides a general overview of regulatory context. The Comprehensive Conservation Planning process is discussed in Section 1.7.

Other relevant plans involving the Service not addressed in Chapter 1 include the Nisqually National Wildlife Refuge Conceptual Plan (CH2M Hill et al. 1978), and the 1996 Update of the Pacific Coast Joint Venture Strategic Plan for Washington State. The Nisqually National Wildlife Refuge Conceptual Plan was prepared in the late 1970s to summarize existing resources and provide a conceptual plan for future development and use of the Refuge. This document has served as the Refuge’s principal management guidance for over two decades and will be superseded by the CCP.

The Washington State component of the Pacific Coast Joint Venture Strategic Plan is the local component of the North American Waterfowl Management Plan, which addresses the conservation and restoration of waterfowl and migratory bird habitat in southern Puget Sound. It identified the Nisqually River delta as the largest remaining relatively undeveloped river delta in the area. Plan recommendations for the southern Puget Sound area include: (1) acquisition or protection of critical estuarine and freshwater wetlands, and important contiguous upland habitat; and (2) restoration of diked former estuarine habitat, where feasible and appropriate.

The Service is also actively involved in the development and implementation of a number of conservation plans for migratory bird species, including the Partners in Flight Conservation of Landbirds in the United States, North American Waterfowl Management Plan, United States Shorebird Conservation Plan, and the North American Waterbird Conservation Management Plan. Regional step-down plans specific to the Nisqually area are discussed below.

The United States Shorebird Conservation Plan was developed through a partnership effort by State and Federal agencies, non-government organizations (NGOs), academic institutions, and individuals committed to restoring and maintaining stable shorebird populations in the U.S. and throughout the Western Hemisphere (Brown et al. 2000). The Northern Pacific Coast Regional Shorebird Management Plan establishes regional goals and objectives for western Oregon and Washington. Important shorebird habitats identified under this plan include coastal estuaries, beaches, rocky shorelines, and pelagic and freshwater systems. Regional goals under the Plan are to: “(1) measurably increase populations, over the next 10 years, of species affected by current or recent declines at population or flyway levels; and (2) stabilize and maintain current levels of breeding, wintering, and migrating populations of other shorebird species within the region/flyway.” The habitat goal for the region is to protect, restore, and enhance habitat conditions necessary to achieve population goals. Specific habitat goals important to Nisqually NWR management include: (1) restoration of tidal regimes to diked wetlands in estuaries; (2) water level and moist soil management in degraded freshwater environments; (3) removal of exotic species and planting or encouraging native vegetation in both estuarine and freshwater areas; and (4) restoration of important roost areas.

The North American Waterbird Conservation Plan is currently under development. It is a collaborative effort by Federal and State agencies, NGOs, researchers, and other experts to formulate a plan that provides an overarching framework for conserving and managing seabirds and other aquatic birds throughout North America. It will facilitate continent-wide planning and monitoring, national-state-provincial conservation action, and local habitat protection and management that taken together will maintain healthy populations of these aquatic species. The goal of the plan is to ensure that the distribution, diversity, and abundance of populations, habitats, and important sites of seabirds and other waterbirds are sustained or restored and maintained throughout their ranges in North America. A regional stepdown plan for western Oregon and Washington will focus on the key species and habitats of the coastal northwest and develop specific goals and objectives for management, monitoring, research, and outreach.

A national plan for the conservation of North American landbirds was developed through a partnership effort by State and Federal agencies, NGOs, academic institutions, and private citizens. The Conservation Plan for Landbirds in Lowlands and Valleys of Western Oregon and Washington is one of 5 habitat-based plans produced by the Oregon-Washington chapter of Partners in Flight for the two-state area, and the plan applies to Nisqually NWR. Similar to the other bird conservation plans already mentioned, the goal of this plan is to improve the extent and condition of habitats, with a particular focus on stabilizing or increasing populations of declining species within a 10- or 15-year timeframe. The plan describes habitat conditions that favor the productivity of focal species that typify specific habitats in the area, and makes

recommendations for how to improve those habitats. The Nisqually River was identified in the plan as being a potential Bird Conservation Area for its riparian habitat value. Many species breeding in the riparian habitat within the Nisqually River surge plain (e.g., Swainson's thrush, yellow warbler, and downy woodpecker) are focal species in the plan. Thus, this plan will be of particular value when designing management or restoration plans for riparian habitats under current or future Refuge ownership.

The Service is developing a Regional Seabird Conservation Plan for the Pacific Region. The plan will include a review of the current Service seabird program and will present a coordinated strategy with specific goals and objectives for management, monitoring, research, and outreach. Key biological parameters will be reviewed and prioritized for inclusion in the monitoring plan. All seabird species will be prioritized by conservation need. Threats and conflicts will be discussed and recommendations for actions and stepdown plans will be included. This plan will provide an overarching review and discussion and identify regional priorities and needed stepdown documents.

5.1.2 Fort Lewis

Fort Lewis is the home of America's I Corps and one of America's power projection platforms. Its mission is to train, mobilize, and deploy combat-ready forces worldwide. Fort Lewis has a strategic and national security mission to support worldwide contingencies and respond to global peacekeeping efforts and disasters with trained and ready soldiers. Fort Lewis is also the site of the Army's first two Initial Brigade Combat Teams for the Army's Transformation Program, the Army's reorganization to meet the requirements and challenges of the 21st century (Department of the Army [DOA] 2002).

Fort Lewis recently initiated planning for its Installation Sustainability Program to integrate environmental and resource planning into operational procedures in support of current and future installation missions. A workshop held in February 2002 brought together stakeholders from the Army, surrounding communities, environmental regulatory agencies, and other agencies to form a consensus on Fort Lewis' 25-year environmental goals.

Major land use categories include cantonment (urbanized), range, and training areas. Effect areas such as artillery ranges are surrounded by buffer areas to prevent noise and safety effects to surrounding areas. Fort Lewis lands between the bluff and the Nisqually River buffer the range, located on the prairie above the bluff. At this time, the range is expected to remain operational for the foreseeable future; the Army expects to continue to rely on its holdings between the range and the river as an unpopulated buffer area (W. Vanhoesen, pers. comm.).

A list of other Federal laws and executive orders that may affect the CCP for Nisqually NWR or the Service's implementation of the CCP is provided in Appendix D.

5.2 State of Washington

A number of State laws and regulations indirectly pertain to the Refuge, including enabling legislation such as the Watershed Planning Act, State's Growth Management Act, and Shoreline Management Act, as administered by local agencies and discussed below. These regulations are indirectly relevant to Refuge planning because they require that all planning by local jurisdictions be consistent with the jurisdiction's comprehensive plan, and that water resource planning be consistent with the jurisdiction's Shoreline Master Program. The plans of both jurisdictions (Pierce and Thurston counties) are discussed later in this chapter.

5.2.1 Watershed Planning Act

The 1998 legislature passed House Bill (HB) 2514, codified into The Revised Code of Washington (RCW) 90.82 to set a framework for addressing the State's water resource and water quality issues, as well as establishing instream flows and addressing salmon habitat needs. RCW 90.82 states: *The legislature finds that the local development of watershed plans for managing water resources and for protecting existing water rights is vital to both state and local interests. The local development of these plans serves vital local interests by placing it in the hands of people: Who have the greatest knowledge of both the resources and the aspirations of those who live and work in the watershed; and who have the greatest stake in the proper, long-term management resources. The development of such plans serves the state's vital interests by ensuring that the state's water resources are used wisely, by protecting existing water rights, by protecting instream flows for fish, and by providing for the economic well-being of the state's citizenry and communities. Therefore, the legislature believes it necessary for units of local government throughout the state to engage in orderly development of these watershed plans.*

5.2.2 Growth Management Act

Planning in Washington State is regulated by the State's Growth Management Act (GMA), a State law passed in 1990 to provide for growth and development while maintaining the state's quality of life. The GMA requires all cities and counties in the state to develop written comprehensive plans, and implement the plans through regulations and innovative techniques. All regulations including subarea plans and land use controls must be consistent with the adopted local comprehensive plan, which in turn must conform to 13 State goals. The most relevant of these include: *Appropriate Economic Development, Protection of Property Rights, Fair and Timely Permit Processing, Support for Open Space and Recreation, Environmental Protection, Participation by Citizens in the Planning Process, Provision of Adequate Public Facilities and Services, and Preservation of Historic Resources.*

5.2.3 Shoreline Management Act

The Washington Shoreline Management Act (RCW 90.58), administered by the Washington State Department of Ecology through Shoreline Master Programs adopted by each local jurisdiction, regulates the development of Washington shorelines. Shoreline Master Programs use environmental area designations [WAC 173-16-040(4)(b)] to describe land uses. The two

designations that apply to the Nisqually delta's marine and riverine shoreline are "Natural" and "Conservancy." The Natural designation is intended to preserve and restore natural resource systems, particularly those that are unique and/or valuable. The Conservancy designation is intended to protect, conserve, and manage existing natural resources, and valuable historic and cultural areas. Specific requirements are discussed in Sections 5.5.3 and 5.6.3.

The State of Washington has also created several specific planning mechanisms specific to the Nisqually River, as discussed below.

5.3 Nisqually Indian Tribe

The Nisqually Indian Tribe is a Federally recognized tribe with reservation, trust lands, and tribal land holdings within the Nisqually Valley. The Nisqually Tribe has strong historical cultural and economic ties to the river and watershed. Planning by the tribe is particularly relevant to the watershed for a variety of reasons: the tribe is the principal watershed planning entity; the tribe is a major advocate for habitat recovery; the tribe is a major land owner in the watershed, and owns approximately 325 acres within approved Refuge boundaries to be managed by the Service as part of the Refuge under a Cooperative Agreement; and the tribe is historically, culturally, economically, and spiritually dependent on its namesake river and watershed.

5.3.1 Nisqually Watershed Planning - Nisqually Water Resource Inventory Area (WRIA) 11

The Nisqually Indian Tribe is the designated lead for Watershed planning for the Nisqually Watershed (Nisqually WRIA 11). The Nisqually Planning Unit, a coalition of interested parties, is working on a draft watershed management plan which is anticipated to be adopted by Pierce, Thurston, and Lewis counties upon completion of the plan in 2003 (G. Walter, pers. comm.).

5.3.2 Nisqually Chinook Recovery Plan

A principal goal of this recovery plan is to restore chinook salmon habitat to the equivalent of properly functioning conditions. Strategic priorities include restoring the estuary, protecting the riparian corridor along the mainstem of the Nisqually River, and implementing instream enhancement in the river. The plan identifies estuarine restoration in the Nisqually delta as the top priority to recover chinook salmon in the Nisqually River Watershed.

5.3.3 Nisqually River Multi-Species Management Plan

The Nisqually Indian Tribe is currently completing the Nisqually River Fall Multi-Species Management Plan which will also focus on restoration of the Nisqually River Estuary (D. Troutt, pers. comm.).

5.3.4 Nisqually Community Vision Plan

The Nisqually Community Vision Plan (Nisqually Indian Tribe 1995) was prepared by Nisqually tribal members in 1995. The plan emphasizes community preservation and development based on tribal values and goals. The document is organized around three major resource planning areas: human, natural, and community resources. Because of the interconnectedness between the Nisqually people and their traditional territory, which includes the entire Nisqually watershed, all three resource areas have some relevance to the Refuge. For example, the human resources section addresses cultural resources, and the community resource section includes relevant economic development provisions such as fisheries. The natural resources section contains the most directly applicable topic areas such as water resources, fisheries, and wildlife. All three consist of 5-year goals and 3-year priorities that provide specific direction for further action.

5.4 Resource-Specific Plans

The Nisqually River Management Plan and Nisqually River Task Force are particularly relevant to Refuge planning since both are specific to management of Nisqually River resources.

5.4.1 Nisqually River Management Plan

The Nisqually River Management Plan (Canning 1986) was approved by the Washington legislature in 1987 to protect the Nisqually River Basin's economic, natural, and cultural resources. The management plan also established the Nisqually River Council to implement the plan and analyze policy issues in the Nisqually and associated watersheds.

The River Management Plan establishes a Core Management Zone, which includes the river and a 200-foot corridor along the river, and a Stewardship Management Zone, which includes "a viewshed corridor along the Nisqually River a minimum of $\frac{1}{4}$ mile and a maximum of $\frac{3}{4}$ mile each side of the river." The Nisqually Stewardship Management Zone follows the Nisqually River and the hydraulic drainage boundary for the lower river basin. While the Refuge is currently designated as part of the Core Management Zone, the bluffs next to the delta were not included in the Stewardship Management Zone (Boyer 1993). This plan was never amended even though it pre-dates the State's Growth Management Act. It is anticipated that the plan will be revisited in conjunction with 5-year revisions to comprehensive plans under GMA by local counties (P. Moulton, pers. comm.).

5.4.2 Nisqually River Task Force

In response to legislative direction to "establish advisory committees to provide technical assistance and policy guidance" in the preparation of an "overall management plan" for the Nisqually River, the Department of Ecology formed the Nisqually River Task Force (NRTF) in August 1985. As mandated by SHB 323, membership of the Task Force includes individuals "representing the interests of Federal, State, and local government entities, agriculture, forestry, the Nisqually Indian Tribe, other property owners, and environmentalists." The Phase 1 (1985) Task Force was made up of two advisory committees, a policy advisory committee (the Steering

Committee), and a Technical Advisory Committee composed of six technical subcommittees. The Steering Committee was retained for a two-phase planning process to develop complete and comprehensive management policy recommendations in response to legislative direction and public testimony (Nisqually River Task Force 1987).

5.5 Thurston County

The majority of the study area lies within the jurisdictional boundaries of Thurston County. This section discusses several planning documents prepared by Thurston County to guide local growth and protect critical resources.

5.5.1 County-Wide Planning Policies

The Thurston County County-Wide Planning Policies were adopted in 1992 following ratification by each of the cities and towns in Thurston County to comply with GMA. The County-Wide Planning Policies were intended to be used to frame and coordinate development of comprehensive plans by each local jurisdiction. The County-Wide Planning policies address urban growth areas, urban services, capital facilities siting, fiscal impact analysis, economic development and employment, affordable housing, transportation, environmental quality, and process. The Thurston County County-Wide Planning Policies are very general and do not directly apply to specific areas such as the Refuge, but they do set the stage for coordinated comprehensive planning by individual jurisdictions such as Thurston County, as addressed below.

5.5.2 Comprehensive Plan

GMA requires that all development regulations and public expenditures on facilities and services by Thurston County be consistent with the comprehensive plan. Thurston County adopted its comprehensive plan to comply with GMA in 1995, updating the County's original comprehensive plan that was prepared in 1975 and overhauled in 1988. The updated plan is primarily a policy document to guide the County's physical and other development consistent with the County's vision statement. Nine of the plan's 13 chapters address specific GMA mandated and other elements. These include: land use, natural resource lands, housing, transportation, capital facilities, private utilities, economic development, natural environment, and historic resources. The comprehensive plan's "Important Green Spaces" map identifies the entire Nisqually River delta as "important habitats," which receive protection through a number of policies in the plan. In addition, one particularly relevant policy to the Refuge is the County's policy to coordinate with "other important green spaces stakeholders" including tribes, Federal agencies, State departments, and others.

5.5.3 Shoreline Master Program

The Nisqually Reach and the Nisqually River, from Alder Lake to Puget Sound, were designated in 1976 as shorelines of statewide significance by the Thurston County Shoreline Master Program (Giebelhaus 1998). The County Shoreline Master Program segments the shoreline into different overlay designations to regulate development. Three Shoreline designations cover the delta and valley. The natural designation, located outside the dike, is extremely restrictive and prohibits the harvesting of timber within the watershed. Much of the developed valley is designated as Rural with a density of two units per acre. Several acres of shoreline are designated Conservancy and allow for a density of one unit per acre (Thurston County Planning Department 1992). Shoreline regulatory criteria protect water quality, aquatic habitats and public health, and public access that preserves or enhances shoreline characteristics that existed prior to public access, and require preservation of aesthetic, scenic, historic, or ecological qualities (Thurston Regional Planning Council 1990).

5.5.4 Shellfish Protection Districts

Parts of the Nisqually Reach have been closed by the State Department of Health for commercial shellfish harvest. The closures are due to the presence of high levels of fecal coliform bacteria, which can come from one or many activities that take place anywhere on lands within the watershed that drains into the waters where the pollution is detected. State law required Thurston County to address the water quality problems within the framework of a "Shellfish Protection District" created in early 2001 (Thurston County homepage, 06/26/2001). The shellfish protection district is a geographic area designated by Thurston County to protect water quality and tideland resources. The district provides a mechanism to generate local funds and publicize information to control non-point sources of pollution (Thurston County homepage, 08/22/2001).

5.5.5 Nisqually Sub-Area Land Use and Zoning Plan

Of all the plans and policies addressed in Chapter 5 of this CCP/EIS, the Nisqually Sub-Area Land Use and Zoning Plan (Thurston County Planning Department 1992) has the most direct applicability to the Refuge as it regulates land use for the portions of the study area located in Thurston County, which comprise the greatest share of the study area. Policies covering Nisqually Agriculture lands and most of the McAllister Creek Basin are included in Thurston County's Nisqually Sub-Area Land Use and Zoning Plan adopted in 1992. One of the plan's goals for the Nisqually planning area is to "Promote and enhance the wildlife habitat throughout the planning area and protect the Nisqually Wildlife Refuge from adjacent developments." Some policies related to this goal are to restrict development in some areas, create opportunities for landowners to participate in wildlife enhancement projects, and support research into the restoration of salt marsh ecosystem within the Brown Farm Dike.

The plan establishes an overlay on the pre-existing zoning, permitting up to one residential dwelling unit per 5 acres. Residential density in the Nisqually agriculture district is one unit per 40 acres for individual lots, one unit per 5 acres for a clustered lot subdivision, and one unit per 5

acres for the purchase of development rights or transfer of development rights programs (Thurston County Planning Department 1992).

The Refuge and adjacent lands fall into the Rural lands category established by the Sub-area Plan. Designations were based on 1992 development densities. The Luhr Beach area west of the McAllister Creek mouth is zoned one unit per 2 acres. The Nisqually Indian Tribal offices on the east side of Reservation Road south of I-5, and the Meridian Heights subdivision on the east side of Meridian Road north of I-5, are zoned at densities of up to 2 units per acre. Commercially zoned lands include the corner of Old Nisqually and lands at Martin Way and McAllister Creek (Thurston County Planning Department 1992; Thurston County Department of Water and Waste Management 1993).

The Sub-area Plan established a regulatory buffer called the Nisqually Hillside Overlay district on the hillsides of the Nisqually River and McAllister Creek. The overlay is a Thurston County Critical Area Special Management Area (Thurston County Advance Planning and Historic Preservation 1994). The buffer reaches from the toe to the top of the bluff along both sides of the Valley. It is intended to reduce the risk of slope failure and maintain the visual integrity of the wooded valley. On the west side, the buffer extends from Luhr Beach to McAllister Springs along McAllister Creek, with a 200-foot buffer upland of the McAllister Bluffs. To the east, the overlay extends 100 feet east of Old Pacific Highway, from the Holroyd pit entrance near Durgin Road to McAllister Springs.

5.5.6 Land Use Ordinances

Thurston County land use ordinances are contained in the County Codes under Environment (Title 17), Platting and Subdivisions (Title 18), Shoreline Master Program (Title 19), Zoning (Title 20), and Lacey, Tumwater, and Olympia Urban Growth Area Zoning (Titles 21, 22, and 23, respectively). The County describes Critical Areas and Important Habitat and Species in Title 17.

Thurston County requires stream buffers between 25 and 100 feet. The Nisqually River's designated buffer width is 100 feet. Buffers for areas designated as Important Habitat are established on a case-by-case basis as described in a habitat management plan. Wetland buffers are 50 to 300 feet depending upon the type of wetland and the adjacent land use.

5.6 Pierce County

The eastern-most portion of the study area lies within the jurisdictional boundaries of Pierce County. This section discusses several planning documents prepared by Pierce County to guide local growth while protecting specific resources. These are most relevant to the portion of the Nisqually Valley on the east side of the river.

5.6.1 County-Wide Planning Policies

Pierce County adopted County-Wide Planning Policies in 1992 (Pierce County 1992, amended in 1996) in response to GMA goals that the comprehensive plans of adjacent jurisdictions be consistent with one another. Issues addressed include affordable housing; agricultural lands; economic development; education; fiscal impact; historic, archeological, and cultural preservation; natural resources; open space; protection of environmentally sensitive lands; siting of regional public capital facilities; transportation; and urban growth areas. The Pierce County County-Wide Planning Policies generally reiterate GMA goals intended to guide development of comprehensive plans prepared by each jurisdiction in the county.

5.6.2 Comprehensive Plan

Pierce County adopted its comprehensive plan under GMA in 1994, replacing the County's 1962 Generalized Comprehensive Plan. The comprehensive plan is a policy document to guide the County's growth and future land use decision-making. The plan consists of nine specific elements addressing land use, rural, housing, transportation, utilities, capital facilities, economic development, environment including historic preservation, and community plans. GMA requires that all development regulations and public expenditures on facilities and services by Pierce County be consistent with the comprehensive plan.

5.6.3 Shoreline Master Program

All marine shorelines and the shorelines of larger streams and associated wetlands in Pierce County are regulated by Pierce County's Shoreline Management Regulations (Title 20). These regulations implement the goals and policies of the Pierce County Shoreline Master Program, by applying specific designations to each portion of the shoreline. The regulations designate all lands on the Nisqually delta that are waterward of the existing dikes as Natural and remaining lands comprising the surge plain as Conservancy. The Natural designation is intended to preserve dynamic natural systems in a manner relatively free of human influence and minimize alterations to natural characteristics that make such shorelines unique and valuable. The Conservancy environment is intended to protect, conserve, and manage natural, historic, and cultural resources to ensure continued public recreational benefits and sustained resource utilization.

5.6.4 Land Use Regulations

Development in Pierce County is regulated through Title 18 of the County Code. Applicable sections of the Code include Zoning (18A), development regulations on Critical Areas including wetlands (18E), and natural resource lands including agricultural land (18I). The upper northeast portion of the Nisqually delta is zoned "Rural 10" by Pierce County, which permits a variety of uses including residential at low to moderate densities.

The Pierce County Wetlands Ordinance requires natural stream buffers between 25 and 150 feet (Pierce County Public Works and Utilities 1997). The Nisqually River's designated buffer width

is 150 feet. Lakes not urban in character are subject to a 35-foot buffer requirement (Pierce County Planning and Land Services 1993).

Pierce County designated critical fish and wildlife habitats as critically important through Ordinance 21.18. The ordinance is based on Priority Habitats and Species (PHS) maps produced by WDFW (Pierce County Public Works and Utilities 1997). Endangered or threatened species are to receive buffers of 100 feet from habitat areas or 1,000 feet from an identified species.

The City of DuPont's Comprehensive Land Use Plan guides development to meet the community's vision (City of DuPont 2001). The City developed Comprehensive Plans in 1985 and 1995 and a Plan Amendment in 2001 (City of DuPont 1985, 1995, 2001). The Plan addresses land use; economic development; natural, environmental, and sensitive areas; parks, recreation, and culture; and housing, transportation, and capital facilities for a 20-year development period ending in 2012.

The DuPont Land Use Code governs all uses of land within the City, including use of buildings, streets, utilities, open space, and other physical amenities. The Land Use Code helps implement the City's comprehensive plan, which may help interpret this code but does not itself regulate land uses. Lands within the proposed expansion area are zoned "open space," "residential," "business tech park," and "mixed use."

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